

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID BROWN,

Plaintiff,

v.

Case No. 21-cv-11565
Hon. Matthew F. Leitman

DONALD HAIDERER,

Defendant.

/

**ORDER EXTENDING TIME TO FILE (1) MOTION TO ALTER OR
AMEND THE JUDGMENT AND (2) NOTICE OF APPEAL**

This a prisoner civil rights action in which Plaintiff David Brown asserts an Eighth Amendment claim against Defendant Dr. Donald Haiderer for failure to treat his keratoconus.

On February 20, 2024, Dr. Haiderer filed a motion for summary judgment. (*See* Mot. for Summ. J., ECF No. 89.) Brown filed a response. (*See* Resp., ECF No. 91.) Dr. Haiderer filed a reply. (*See* Reply, ECF No. 92.) Thereafter, the assigned Magistrate Judge entered a Report and Recommendation (“R. & R.”) in which she recommended the Court grant Dr. Haiderer’s motion for summary judgment. (*See* R. & R., ECF No. 94.) Brown filed objections to the R. & R. (*See* Obj., ECF No. 99.)

After carefully reviewing the R. & R. and Brown's objections, on September 30, 2024, the Court entered an order overruling Brown's objections and granting summary judgment for Dr. Haiderer. (*See* Order, ECF No. 101.) That same day, the Court entered a final judgment against Brown. (*See* Judgment, ECF No. 102.) Ordinarily, the entry of that judgment would have commenced the time for Brown to file a notice of appeal or a motion to alter or amend the judgment under Rule 59 of the Federal Rules of Civil Procedure. Unfortunately, however, the Court failed to send the order and judgment to Brown due to a clerical error.

In the months following the final judgment, Brown worked diligently to seek clarity on the next steps available to him given that he did not receive a copy of the final judgment. (*See, e.g.*, Letters, ECF No. 103, 106; Mot. to Reopen Case, ECF No. 104.)

On December 17, 2024, the Court convened an on-the-record status conference with the parties. For the reasons stated on the record, and due to the confusion that arose as a result of the Court's failure of service, the Court finds good cause to reset the deadlines in this matter as follows:

1. Brown may file a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e) by **not later than January 7, 2025**. Dr. Haiderer may respond by **not later than January**

28, 2025. Brown may reply by **not later than February 11, 2025.**

2. In the event the Court denies Brown's motion to alter or amend the judgment, Brown may file a notice of appeal **within twenty-one (21) days of the denial.**

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: December 17, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on December 17, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
(313) 234-5126